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OFFICE OF PETITIONS

In re Application of :
Watanabe et al. : DECISION ON PETITION
Application No. 10/001,256 :
Filed: November 2, 2001 :
Attorney Docket No. U 013698-2:

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed September 18, 2006.

By Notice of Abandonment mailed September 8, 2006, applicants were advised that the above-identified application had become abandoned in view of the decision by the Board of Patent Appeals and Interference rendered on March 30, 2006 and because the period for seeking court review of the decision has expired and there are no allowed claims.

In response, applicants timely filed the instant petition, requesting withdrawal of the holding of abandonment on the basis that:

the notice erroneously states that the period for seeking court review of the Board of Patent Appeals and Interference decision of March 30, 2006 expired, but Applicants respectfully note that they filed a Request for Rehearing on May 30, 2006 as evidenced by the attached PAIR printout, which shows that the Board rendered a decision on the Request for Rehearing on July 28, 2006. Applicants further state that upon applicable rules, applicants have two (2) months from the Board's decision (i.e., until September 28, 2006, to file a notice of appeal to the Court of Appeals for the Federal Circuit (see 37 CFR 1.304(a)(1)), and that period (as of the filing of the petition) had not run.

Applicants are correct. 37 CFR 1.304 provides the Time for appeal or civil action, as follows:

(a)(1) The time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§ 1.302) or for commencing a civil action (§ 1.303) is two months from the date of the decision of the Board of Patent Appeals and Interferences. If a request for rehearing or reconsideration of the decision is filed within the time period provided under § 41.52(a), § 41.79(a), or § 41.127(d) of this title, the time for filing an appeal or commencing a civil action shall expire two months after action on the request. In contested cases before the Board of Patent Appeals and Interferences, the time for filing a cross-appeal or cross-action expires:

(i) Fourteen days after service of the notice of appeal or the summons and complaint; or

(ii) Two months after the date of decision of the Board of Patent Appeals and Interferences, whichever is later.

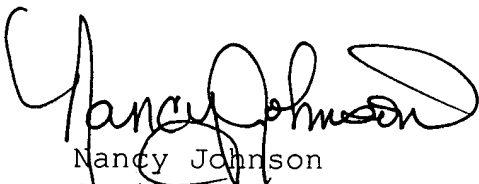
In view thereof, the notice of abandonment mailed September 8, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 1714 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and for the examiner to consider the request for continued examination (RCE) filed October 2, 2006.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions